

CHAPTER I GENERAL PROVISIONS

SECTION 1 – BACKGROUND

1100 PURPOSE

The FNS Handbook 501 provides Indian Tribal Organizations (ITOs) and State agencies guidance on the administration of the Food Distribution Program. The chapters within the handbook cover all aspects of the program including financial management, certification of households, food ordering, and inventory control.

1110 DEFINITIONS

The definitions used in this handbook are listed in alphabetical order below:

"Application Form" means the form, and any attachments, completed by a responsible household member or authorized representative in applying for participation in the Food Distribution Program. The application form, which is designed by the ITOs and State agencies, must be acceptable to FNS. "Application form" may also refer to the form used to apply simultaneously for public assistance and the Food Distribution Program or general assistance and the Food Distribution Program in areas that conduct joint processing of applications.

"Assistance Household" means any household in which all members are recipients of public assistance, supplemental security income (except in "cash-out" States), or certain general assistance programs that have been determined by FNS to have eligibility criteria that are the same as, or similar to, any of the Federally aided public assistance programs.

"Authorized Representative" means an individual designated by a responsible member of the household to act on behalf of the household in making an application for commodities and/or obtaining commodities.

"Boarder" means an individual to whom a household furnishes meals, or meals and lodging, for compensation.

"Categorical Eligibility" means that an assistance household will, if otherwise eligible, be determined eligible to participate in the Food Distribution Program without regards to the income and resources of the household members.

"Consignee" means a person, such as a warehouseman, to whom USDA donated commodities are shipped for storage and/or handling until they are utilized in the Food Distribution Program.

"Disqualified Member" means an individual disqualified from participation in the Food Distribution Program.

"Dunnage" means the packing material used in shipment of commodities.

"Entity Code" means a numbered code assigned by the Kansas City Commodity Office that incorporates all the necessary shipping information for each destination.

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"Exercises Governmental Jurisdiction" means (1) the active exercise of the legislative, executive, or judicial powers of government by a tribal entity on a reservation; or (2) the exercise of authorities granted to a tribal entity under the Oklahoma Indian Welfare Act of 1936 or by regulations issued by the Bureau of Indian Affairs.

"First-In, First-Out" means the first shipments of each food item should be the first food distributed to recipients.

"FNS Service Area" means the area for which FNS has approved the Food Distribution Program for Indian Households in Oklahoma. Urban places in FNS service areas cannot be served, unless FNS has granted a waiver.

"Food Distribution Program" refers collectively to the Food Distribution Program on Indian Reservations (operated pursuant to 7 CFR Part 253) and the Food Distribution Program for Indian Households in Oklahoma (operated pursuant to 7 CFR Part 254).

"General Assistance Household" means a household receiving cash or another kind of assistance, excluding in-kind assistance, financed by State or local funds as part of a program that provides assistance to cover living expenses or other basic needs intended to promote the health or well being of recipients.

"Head of Household" means a responsible household member in whose name the application is made for participation in the program.

"Indian Tribal Household" means a household that includes at least one household member who is recognized as a member of an Indian tribe. The disqualification of the only household member recognized as a member of an Indian tribe would not change the status of an Indian Tribal Household.

"Indian Tribal Organization" means (1) the recognized governing body of an Indian tribe on a reservation; (2) an Indian tribe, band or group organized under the Oklahoma Indian Welfare Act of 1936 that has a tribal organization approved by the Bureau of Indian Affairs; (3) a tribal entity in Oklahoma established and approved under Federal regulations issued by the Bureau of Indian Affairs; or (4) an intertribal organization authorized by the recognized governing bodies of two or more Indian tribes to operate the Food Distribution Program on their behalf.

"Indian Tribe" means (1) any tribal entity that is designated by the Bureau of Indian Affairs as eligible for Federal programs and services by virtue of its status as an Indian Tribe **and** either exercises governmental jurisdiction on a reservation (including Alaska Native Villages or Regional Corporations established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688)) or is a tribal entity organized under the Oklahoma Indian Welfare Act of 1936 that has a tribal organization approved by the Bureau of Indian Affairs; or (2) any Indian entity on a reservation or in Oklahoma that holds a treaty with a State government.

"Near Area" means an area approved by FNS for service by the Food Distribution Program that is outside the geographic boundaries of a reservation. Urban places in near areas cannot be served, unless FNS has granted a waiver.

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"Nonassistance Household" means any household in which one or more members do not participate in a public assistance program, supplemental security income, or a general assistance program that has been determined by FNS to have eligibility criteria that is the same as, or similar to, any of the Federally aided public assistance programs.

"Perpetual Inventory" refers to inventory records for USDA donated commodities that are updated immediately after shipments into and withdrawals out of the warehouse.

"Public Assistance (PA) Household" means a household that receives cash or another type of assistance under any of the following programs authorized by the Social Security Act of 1935, as amended: Old-age assistance, Temporary Assistance to Needy Families (TANF), including TANF for children of unemployed fathers, aid to the blind, aid to the permanently and totally disabled, and aid to aged, blind, or disabled.

"Reservation" means the geographically defined area or areas over which an ITO exercises governmental jurisdiction, so long as such area or areas are legally recognized by the Federal or a State government as being set aside for the use of American Indians.

"Roomer" means an individual to whom a household furnishes lodging, but not meals, for compensation.

"Secretary" means the Secretary of USDA.

"Spouse" refers to either of two individuals: (1) who would be defined as married to each other under applicable State law; or (2) who are living together and are holding themselves out to the community as husband and wife by representing themselves as such to relatives, friends, neighbors, or trades people.

"State Agency" means (1) an ITO, determined by FNS to be capable of effectively administering a Food Distribution Program, that enters into an agreement with FNS for the distribution of commodities on all or part of an Indian reservation(s), in approved near areas, or in FNS service areas in Oklahoma; or (2) the agency of a State government, including its local offices, that enter into an agreement with FNS for the distribution of commodities on all or part of an Indian reservation(s), in approved near areas, or in FNS service areas in Oklahoma.

"Student" means an individual who is attending at least half-time in a preschool, kindergarten, grade school, high school, vocational school, technical school, training program, college or university.

"Supplemental Security Income (SSI)" means monthly cash payments made under the authority of: (1) Title XVI of the Social Security Act, as amended, to the aged, blind and disabled; (2) section 1616(a) of the Social Security Act; or (3) section 212(a) of Public Law 93-66.

"Urban Place" means a town or a city with a population of 10,000 or more.

"Vendor" means a food processor that sells food to USDA for use in the Food Distribution Program.

SECTION 2 – ADMINISTRATION**1200 REQUIREMENTS FOR ITO/STATE AGENCY ADMINISTRATION OF PROGRAMS****1210 PLAN OF OPERATION**

An ITO/State agency that wants to assume responsibility for administering the Food Distribution Program must submit a Plan of Operation (see Exhibit A, attached) for approval by FNS. No administrative funds or USDA commodities will be available until FNS approval is obtained. Federal regulations at 7 CFR 253.5 provide details on the requirements for assurances and content of the Plan of Operation.

1211 Amendments to Plan of Operation

All amendments to the Plan of Operation must be approved by FNS prior to the initiation of any significant changes in operation that are contrary to or not embraced by the Plan. Either the ITO/State agency or FNS may initiate an amendment to the Plan of Operation.

1212 Submission of Plan of Operation to the ITO

When the administering agency is a State agency, it must submit its Plan of Operation, budget, and any subsequent amendments to the ITO for comment at least 45 days prior to submission of the Plan, budget or amendment to FNS. Comments by the ITO must be attached to the Plan, budget, or amendment that is submitted to FNS.

1213 Agreements

Each participating ITO/State agency must execute Form FNS-74, Federal State Agreement (see Exhibit B, attached), as specified in applicable regulations.

1220 STAFFING

The ITO/State agency must employ sufficient staff to order and provide for the warehousing of USDA commodities; certify households; distribute the commodities to eligible households; account for administrative funds; review local agency operations and provide assistance when needed; prepare and submit required reports and records; process fair hearing requests; and perform outreach activities and other program functions as specified in this Handbook and in the Plan of Operation. The ITO/State agency must be responsible for meeting quality and timeliness standards described in this Handbook.

1221 Salaries

When any part of administrative funds is used for salaries of persons employed by the ITO/State agency, salary rates must be those established under the State agency's merit personnel system;

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however, where there are no positions classified and no salary rates established for persons employed by the ITO/State agency, the rates must be those of positions requiring comparable skills and responsibility in the private sector. Salary paid persons employed at the local level must be commensurate with or equivalent to, but not in excess of, salaries paid for comparable positions or work in local government in the same geographic area; however, no person employed will be paid less than the Federal minimum wage scale. (See FNS Instruction 716-4, Administrative Budget Negotiation Guidance for the Food Distribution Program on Indian Reservations, for FNS policies on cost of living increases, merit awards, promotions, and bonuses.)

1222 Administrative Personnel

ITO/State agency personnel used in certification must be employed in accordance with the standards for a Merit System of Personnel Administration. When appropriate, the ITO personnel system may be used if its procedures are similar. ITO/State agency employees meeting the above requirements must perform the certification interviews of households applying for the Food Distribution Program.

1223 Use of Other Staff

Volunteers and other non-ITO/non-State agency employees can not conduct certification interviews or certify food distribution applicants. ITOs/State agencies are encouraged to use volunteers in related activities such as outreach, interpreting, prescreening, assisting applicants in completing the application, and securing needed verification.

1224 Activities Prohibited by Staff

An ITO/State agency that accepts FNS administrative funds must ensure that any officer or employee, who performs duties in connection with this program, does not:

- A. Use his/her authority or influence to interfere with or otherwise attempt to affect the result of an election or a nomination for office;
- B. Directly or indirectly coerce, attempt to coerce, command, or advise any other officer or employee to pay, lend, or contribute any part of his/her salary or compensation or anything else of value to any party committee, organization, agency, or person for political purposes; or
- C. Use the distribution of USDA commodities to further the political interests of an individual or party. This applies to tribal elections as well as local/State/national elections (see paragraph 1350, below).

1230 TRAINING

The ITO/State agency must have a continuing training program for food distribution certification and distribution workers, hearing officials, field supervisors who review local Food Distribution Programs, outreach staff, individuals involved in prescreening activities, volunteers, and warehouse workers.

1231 Content of Training

ITO/State agency training programs must cover, as appropriate, eligibility criteria, certification procedures, household rights and responsibilities (including non-discrimination rights), other job-related responsibilities concerning the certification of households (for example, interviewing skills) and commodity receipt, storage, distribution and accountability practices. The content of training programs must be reviewed by the appropriate FNS Regional Office and changes made where necessary. Changes in policy or procedures arising from court actions or revisions to legislation and regulations must be promptly reflected in ITO/State agency training programs.

1240 ANNUAL REVIEW REQUIREMENTS

The ITO/State agency must monitor and review its operations, and local agency operations, as appropriate, at least annually to ensure compliance with all the requirements for administration of the Food Distribution Program. Program deficiencies must be documented and specific plans for corrective action must be initiated to correct the deficiencies noted.

1241 Reviews

Reviews must include, but not be limited to certification of households, determination of food preferences, distribution of commodities, compliance with Title VI of the Civil Rights Act of 1964 and other applicable civil rights legislation, fair hearing procedures, warehousing and inventories, and timeliness and accuracy of reports to FNS. Program reviews and corrective action plans must be available to FNS upon request.

1242 Technical Assistance

The ITO/State agency must provide assistance to local agencies, as needed, to prevent and/or correct program deficiencies. This assistance may include providing written instructions and on-the-job training as well as formal training sessions.

1250 NONDISCRIMINATION

ITOs/State agencies must not discriminate and must not allow discrimination against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the distribution of commodities, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, disability, religious creed, national origin or political beliefs. Enforcement action may be brought under any applicable Federal law. Title VI compliance must be processed in accord with 7 CFR Part 15, USDA's regulations on nondiscrimination, and FNS Instruction 113-3, Rev.2, Civil Rights Compliance and Enforcement - Food Distribution Program.

1260 FNS NONDISCRIMINATION COMPLAINT PROCEDURES

People who believe that they have been subject to discrimination may file a complaint with USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (202) 720-5964 (voice and TDD).

1261 Complaint Requirements

Complaints should contain the following information to facilitate investigations:

- A. Name, address and telephone number or other means of contacting the person alleging discrimination;
- B. Location and name of organization or office that is accused of discriminatory practices;
- C. The nature of the incident or action that led the complainant to allege discrimination;
- D. The reason for the alleged discrimination (age, race, color, sex, disability, religious creed, national origin or political beliefs);
- E. The names, titles (if appropriate) and addresses of persons who may have knowledge of the alleged discriminatory acts; and
- F. The date or dates on which the alleged discriminatory action(s) occurred.

1262 Verbal Complaints

If a complainant makes allegations verbally and is unable or reluctant to put the allegations in writing, the person to whom the allegations are made must document the complaint in writing. Every effort must be made by the individual accepting the complaint to have the complainant provide the information listed in paragraph 1261, above.

1263 Action by Office of Civil Rights

The Director, Office of Civil Rights, will accept complaints (at the address contained in paragraph 1260, above) even if the information listed in paragraph 1261, above, is not complete. However, an inquiry can only be conducted by that office if the information listed in items B, C, and D in paragraph 1261, above, is provided.

1264 Time Limit for Filing a Complaint

A complaint must be filed no later than 180 days from the date of the alleged discrimination. However, the time for filing may be extended by the Director, Office of Civil Rights, at the address contained in paragraph 1260, above.

1265 Public Notification

ITOs/State agencies must:

- A. Publicize the procedures for handling civil rights complaints;
- B. Ensure that all offices involved in administering the program and that also serve the public display the non-discrimination poster provided by FNS; and
- C. Ensure that participants and other low-income households have access to information regarding nondiscrimination status and policies, complaint procedures, and the rights of participants, within ten days of the date of a request.

1270 SANCTIONS

If the ITO/State agency does not comply with the Plan of Operation and the regulations, FNS has the option to withhold administrative funds and/or to disqualify the ITO/State agency from making further distribution of USDA commodities to households. In addition, FNS may take other actions, including prosecution under applicable Federal statutes, when appropriate.

1280 OUTREACH

The ITO/State agency must inform potentially eligible households of the availability of the Food Distribution Program and must provide printed program information in appropriate language(s) to potential recipients and to other interested persons. The outreach material must explain eligibility requirements, contain information about a household's right to file an application on the same day it contacts the certification office, contain the required nondiscrimination statement and civil rights complaint procedures, and outline the household's right to a fair hearing.

1281 Referral

The ITO/State agency must obtain information about the general eligibility requirements of other available assistance programs and provide potentially eligible persons the addresses and telephone numbers of local program offices. Such programs include the Supplemental Food Program for Women, Infants, and Children (WIC) or the Commodity Supplemental Food Program, if available; the Supplemental Security Income Program (SSI); and appropriate public and general assistance programs. In addition, children participating in the Food Distribution Program are automatically qualified under direct certification procedures for meals under the National School Lunch Program and the School Breakfast Program.

SECTION 3 - GENERAL REQUIREMENTS**1300 AVAILABILITY OF INFORMATION**

Regulations, the Plan of Operation, Federal procedures, such as handbooks, and ITO/State agency certification and distribution manuals and supplemental instructions issued for use in certifying or distributing to households must be maintained in the ITO/State agency office and all local offices for examination by members of the public on regular workdays during regular office hours.

ITOs/State agencies must also provide clearly written information, such as brochures or pamphlets, that describe basic financial and nonfinancial eligibility criteria, the application process and participant rights and responsibilities. This written information must be distributed at food stamp and food distribution certification offices and distribution points, PA and GA offices, and must be made available to local social security offices and local offices that administer unemployment compensation programs. ITOs/State agencies must contact those offices to enlist their cooperation in distributing the written information.

1310 BILINGUAL STAFF AND MATERIALS

Where either an estimated 100 or more low-income households or the majority of low-income households speak the same non-English language (a single-language minority), the ITO/State agency must provide bilingual outreach and certification materials, and staff or interpreters as specified in the regulations. Sufficient bilingual staff must be provided to assure timely processing of non-English speaking applicants. Single-language minority refers to households that speak the same non-English language and do not contain adult(s) fluent in English as a second language. If the non-English language is spoken, but not written, the ITO/State agency must provide bilingual staff, if required, but not bilingual material.

1311 Certification Materials

Certification materials must include the Food Distribution Program application form, notices to households, and forms developed by the ITO/State agency for reporting changes in household circumstances.

1312 Notices

If notices are required in only one language other than English, they may be printed in English on one side and in the other language on the reverse side. If the certification office is required to use several languages, the notice may be printed in English and may contain statements in other languages summarizing the purpose of the notice and the telephone number to call for more information. For example, a notice of eligibility could, in the appropriate language(s), state "Your application for food distribution has been approved in the amount stated above. If you need more information, please telephone 111-555-1111."

1320 DISCLOSURE OF HOUSEHOLD INFORMATION

The ITO/State agency must restrict the use or disclosure of information obtained from applicant households to persons directly connected with the administration or enforcement of the Food Distribution Program, except that such information may be provided to agencies administering

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Federal or federally aided means-tested assistance program, such as the Food Stamp Program, the National School Lunch Program and School Breakfast Program, TANF, Medicaid, SSI, and GA programs that are subject to the joint processing requirements under Section 2, Special Application Process, of Chapter III of this Handbook.

1330 HOUSEHOLD ACCESS TO CASE FILE

If there is a written request by a responsible member of the household, its currently authorized representative, or a person acting on its behalf to review materials contained in the household's case file, the material and information contained in the case file must be made available for inspection during normal business hours. However, the ITO/State agency may withhold confidential information, such as the names of individuals who have disclosed information about the household without the household's knowledge, or the nature or status of pending criminal prosecutions.

1340 STATE AGENCY COORDINATION WITH ITO

When the administering agency is other than the ITO, the ITO may receive copies of certification and/or termination notices to the extent requested or agreed upon by the household. State agencies and ITOs may establish a formal procedure to ensure ITO receipt of notices.

1350 INFLUENCE OF POLITICAL INTERESTS

The distribution of USDA commodities must not be used to further the political interests of any individual or party. This applies to tribal elections as well as local/State/national elections. The ITO/State agency must not display or allow local agencies to display political materials of any kind and must not allow individuals or political parties to campaign on the Food Distribution Program grounds, in the certification office or the distribution warehouse (see paragraph 1224C, above).

1360 PAYMENT FOR USDA COMMODITIES

Households must not be required to make any payments in money, materials, services, or in-kind to receive USDA commodities and they must not be solicited for voluntary contributions for any purpose.

1370 DUAL PARTICIPATION

Dual participation by any household member in the Food Stamp and Food Distribution Programs is prohibited. Simultaneous participation in multiple Food Distribution Programs is also prohibited. The ITO/State agency must inform each applicant household of this prohibition and must devise a method to prevent dual participation. This method must, at minimum, use lists of currently certified households provided by and provided to the appropriate State or local food stamp agency on a monthly basis. The ITO/State agency may also use computer checks, address checks, and telephone calls to prevent dual participation.

1380 REPLACEMENT OF COMMODITIES

The ITO/State agency must not replace commodities that are stolen, lost, damaged or destroyed while in the possession of the household. Latent defects discovered by the household should be reported in accordance with paragraph 6216, below.

SECTION 4 - NUTRITION EDUCATION**1400 NUTRITION EDUCATION**

The ITO/State agency must publicize the benefits of USDA commodities and how they can be used to contribute to a nutritious diet. In addition, the ITO/State agency must provide participating households with information on proper storage and care of commodities.

1410 NUTRITION EDUCATION MATERIALS

The ITO/State agency should make use of various nutrition education materials available from FNS, USDA Food and Nutrition Information Center, other Federal and State agencies, Indian Health Service Nutritionists, Diabetes or Health Educators, County Extension home economists, and other nutrition and health organizations in providing nutritional guidance to participating households. Some of the materials that may be used include visual displays, bilingual or illustrated recipes, and menus.

1420 VOLUNTEERS AND COOPERATING ORGANIZATIONS

The ITO/State agency should make use of volunteers and work cooperatively with appropriate organizations in conducting nutrition education activities. County extension home economists, Expanded Food and Nutrition Education Program aides (if available on or near the reservation), and qualified volunteers may be used to hand out food and nutrition information, conduct taste tests and cooking demonstrations, and teach food preparation and storage methods in classroom settings or during home visits.

1430 NUTRITION EDUCATION GRANTS

Food Distribution Program funds specifically earmarked by FNS for nutrition education must be used by ITOs and State agencies to implement procedures or accomplish nutrition education objectives as identified by FNS and as appropriate on the reservations.

SECTION 5 - RECORDS AND REPORTING**1500 RECORDS AND REPORTS**

The ITO/State agency must keep such records and submit such reports as required by FNS. In addition, the ITO/State agency must ensure that local agencies are keeping records and submitting reports as required.

1510 RETENTION AND MAINTENANCE OF RECORDS

All program records must be retained for a period of three years from the date of the submission of the final Form SF-269, Financial Status Report, or until all issues are resolved. These records include applications for certification and recertification, worksheets used in computing income for eligibility, documentation of verifications of eligibility criteria, notices to the distribution unit authorizing or changing participation, notices of adverse action, other notices sent to households and responses thereto, actions related to the fair hearing process, discrimination complaints, investigations and responses, fiscal records, including program expenditures, property records and financial reports, and food receipt distribution, inventory and loss records and reports. If any litigation, claim, or audit is in process, all records must be retained until all litigation, claim, or audit findings involving the records have been resolved.

All records must be maintained in an orderly manner and must be available for audit purposes. Records of different Federal fiscal years must be maintained separately to facilitate easy access. Records must be safeguarded from theft, fire, or other damage. When records are stored away from the principal office, the ITO/State agency must maintain a written index of the location of records. Microfilm copies, computer backup disks, or tapes may be substituted for original records in the event data is required for audit purposes.

1520 REPORTS – ITO/STATE AGENCY TO FNS

The ITO/State agency must submit the following reports to FNS within the specified deadlines:

- A. Form SF-269, Financial Status Report. ITOs or State agencies receiving funds through a LOC or treasury check must submit to the FNS Regional Office quarterly reports (see Exhibit C, attached) to document the use of such funds. This report must be used by all State agencies receiving funds. Form SF-269 must be signed by an authorized ITO/State agency official and submitted to the appropriate FNS Regional Office 30 days after the end of each quarter. The reporting dates are January 30, April 30, and July 30 for the first three quarters. The fourth quarter reporting date is October 30. The final report for the fiscal year is due December 30. ITOs or State agencies receiving Nutrition Education or Capital Expenditure funds must submit an SF-269A (see Exhibit C-I, attached) no later than 90 days following the close of the fiscal year (December 30).
- B. Form FNS-101, Participation in Food Programs - By Race. This form (see Exhibit E, attached) identifies the number of households participating, by race and ethnicity (Hispanic/Latino), that participated in the Food Distribution Program in the month of July each year. A computer-generated FNS-101 may be substituted in lieu of a printed form. The ITO/State agency must mail, data fax, or electronically transmit a completed copy of Form FNS-101 to be received by the appropriate FNS Regional Office by September 15 each year.

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C. USDA Commodity Accountability Reports

1. Form FNS-152, Monthly Distribution of Donated Foods to Family Units. All ITOs/State agencies must submit a Form FNS-152 (see Exhibit G, attached), for each of their local distribution sites. Agencies of State governments, who distribute USDA donated foods directly to households, must submit a Form FNS-152 for their central warehouse. In addition ITOs must submit a Form FNS-152 for the ITO's central warehouse, whether the ITO distributes directly to households or not. The Form FNS-152 report shows commodities received, distributed, redonated, or lost during the 30-day reporting period. Form FNS-152 must be received in the appropriate FNS Regional Office by the 15th day of the month following the month in which the commodities were distributed, e.g., August 15th for the commodities distributed in July.
2. Form DA-663E, Food Distribution Commodity Acceptability Progress (CAP) Report. ITOs/State agencies are asked to provide commodity acceptability information to FNS every two years (see Exhibit AA, attached).

1530 REPORTS - LOCAL AGENCY TO ITO/STATE AGENCY

The ITO/State agency must require the following reports from local agencies:

- A. Form FNS-152, Monthly Distribution of Donated Foods to Family Units. The ITO/State agency must require local distribution sites to submit monthly inventory reports which must include commodity receipts, distributions, transfers, and losses. The ITO/State agency must use the Form FNS-152 (see Exhibit G, attached) for this purpose and must provide it to the local agencies. The ITO/State agency must require that the inventory reports be received in the ITO's/State agency's office no later than the 10th day of the month following the month in which the commodities were distributed, e.g., August 10th for the commodities distributed in July.
- B. Form FNS-101, Participation in Food Programs - By Race. Form FNS-101 (see Exhibit E, attached) identifies the number of household contacts, by race and ethnicity (Hispanic/Latino), that participated in the Food Distribution Program in the month of July each year. A computer-generated FNS-101 may be substituted in lieu of a printed form. The ITO/State agency must require all local agencies to mail, data fax, or electronically transmit a completed copy of Form FNS-101 to be received by the ITO/State agency by August 20 each year. The ITO/State agency must mail, data fax, or electronically transmit a completed copy of Form FNS-101 to be received by the appropriate FNS Regional Office by September 15 each year.

SECTION 6 - FNS REVIEWS OF PROGRAM OPERATIONS**1600 ITO/STATE AGENCIES**

FNS will review program operations at the ITO/State agency level to evaluate the effectiveness of the ITO/State agency in meeting the Plan of Operation and applicable policies, instructions, and regulatory requirements, and in providing efficient service to participants. The areas of review may include outreach activities, staffing, training, financial accountability and controls, certification and issuance procedures, program monitoring activities, complaints and fair hearing procedures, commodity ordering procedures, warehousing facilities and practices, recordkeeping and reporting, and civil rights compliance. FNS may conduct focused reviews on specific aspects of program operations.

The results of FNS' ITO/State agency level review must be documented in a formal Management Evaluation Report, which must contain recommendations for corrective action on program discrepancies. FNS will consult with the ITO/State agency to devise a corrective action plan on all major deficiencies and will require that appropriate steps be taken to resolve such deficiencies within a specified time frame. FNS will conduct follow-up reviews, as needed, to ensure that corrective action has been implemented and is effective.

1610 LOCAL AGENCIES

As appropriate, FNS will review program operations at the local agency level to evaluate the effectiveness of the State agency's administration of the program and ensure that it is in compliance with the State agency's Plan of Operation, applicable policy memorandum, this Handbook, instructions and regulatory requirements. These reviews may include the areas listed in paragraph 1600, above, as well as a review of the effectiveness of the State agency's training efforts and assistance to the local agencies. FNS will also review the State agency's monitoring reports and corrective action plans, if program deficiencies were found at the local agencies. As appropriate, FNS will conduct follow-up reviews to ensure that corrective action has been implemented and is effective.

SECTION 7 - AUDITS**1700 ITO/STATE AGENCY**

Audits are intended to ascertain the effectiveness of the financial management control and reporting systems as well as the internal procedures that have been established to meet the terms and conditions for Food Distribution Program funding.

Audit requirements for State, local, and Tribal governments and non-profit organizations that receive from USDA direct (recipient) or indirect (sub-recipient) financial assistance or cost-type contracts used to buy service or goods for the use of the Federal Government are contained in OMB Circular A-133, "Audits of States, Local Governments and Indian Tribal Organizations." State, local, and Tribal governments that expend \$500,000 or more in Federal awards within their respective fiscal years must have an audit made in accordance with OMB Circular A-133. Specific guidance for the conduct of these audits is provided under 7 CFR Part 3052.

1710 AUDIT AUTHORITY

The USDA Office of the Inspector General and the U.S. General Accounting Office have the authority to conduct audits of Food Distribution Programs at both the ITO/State agency and local agency levels and to review audit reports and related working papers of audits performed by or for ITOs/State agencies. A primary audit objective will be the continuing inspection and evaluation of the adequacy of the ITO's/State agency's financial management systems and controls. In addition, the audits may include client services, certification and distribution, fair hearings and all other aspects of the program governed by the regulations.